

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Philip Lyle Martin,

File No. 21-cv-00412 (ECT/JFD)

Plaintiff,

v.

**ORDER ACCEPTING REPORT  
AND RECOMMENDATION**

Joshua Larson, *MD*; Jennifer Witt, *MD*;  
Benjamin Rice, *MD*; Ashley Peterson, *FNP-BC*; L. Lind, *RN*; Lori Pykkonen, *RN*; and  
B. Bahneman, *RN*,

Defendants.

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Magistrate Judge Judge John F. Docherty issued a Report and Recommendation on March 24, 2022. ECF No. 70. No party has objected to that Report and Recommendation, and it is therefore reviewed for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, and based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS ORDERED THAT:**

1. The Report and Recommendation [ECF No. 70] is **ACCEPTED**.
2. Defendants B. Bahneman, L. Lind, Ashley Peterson, and Benjamin Rice's Motion to Dismiss and for Summary Judgment [ECF No. 28] is **DENIED AS MOOT**.
3. Defendant Joshua Larson's Motion for Judgment on the Pleadings and for Dismissal Pursuant to Minn. Stat. § 145.682 [ECF No. 40] is **GRANTED**, and all claims against him are **DISMISSED WITH PREJUDICE**.

4. Plaintiff Philip Lyle Martin's Motion to Dismiss Without Prejudice [ECF No. 54] is construed as:

- a. a notice of voluntary dismissal pursuant to Rule 41(a)(1)(A)(i) against Defendant Lori Pykkonen, and Plaintiff's Motion is **GRANTED** to that extent; and
- b. along with Defendants B. Bahneman, L. Lind, Ashley Peterson, and Benjamin Rice's Response [ECF No. 56], a stipulation of dismissal pursuant to Rule 41(a)(1)(A)(ii) with those Defendants, and Plaintiff's Motion is **GRANTED** to that extent.
- c. All claims against Defendants B. Bahneman, L. Lind, Ashley Peterson, Benjamin Rice, and Lori Pykkonen are **DISMISSED WITHOUT PREJUDICE**.

5. Defendant Jennifer Witt's Motion for Judgment on the Pleadings and for Dismissal Pursuant to Minn. Stat. § 145.682 [ECF No. 61] is **GRANTED**, and all claims against her are **DISMISSED WITH PREJUDICE**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: April 18, 2022

s/ Eric C. Tostrud

Eric C. Tostrud  
United States District Court